IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 167 of 1995

DATE OF DECISION: 13.9.2006

Sadique Mohd. and others

.....PETITIONER

VERSUS

Assistant Manager, FCI, Sangrur and others.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M.M.S.BEDI

PRESENT: None for the petitioners.

Mr.Jatin Shehrawat, Advocate for
Mr.Rakesh Garg, Advocate for respondent No.1

M.M.S.BEDI,J.

Vide impugned order dated 7.9.1994, the application filed by the plaintiff-petitioners under Order 1 Rule 10 read with Section 151 C.P.C. for impleading Food Corporation of India, Delhi Head Office, New Delhi, chairman Food Corporation of India, Delhi Head Office, Zonal Manager, Food Corporation of India, Delhi Head Office, Senior Manager, Food Corporation of India, Regional Office, Chandigarh, District Manager, Food Corporation of India, Sangrur and three members Committee, F.C.I. (ITUC), Railway Road, Malerkotla as defendants in the suit has been dismissed.

Vide order dated July 7,1994 when the revision petition came

up for preliminary hearing, the same was dismissed so far as it relates to the claim of the petitioners for impleading the above said persons except for Food Corporation of India, New Delhi.

I have gone through the impugned order, which indicates that the plaintiff-petitioners have filed a suit for mandatory injunction directing the respondents to make payment of the wages, remaining dues for the period commencing from 5.9.1992 to 31.8.1993. A prayer has also been made in the main suit for a direction to the defendant-respondents to deposit EPF @ 20% in the account of the plaintiff-petitioners. The trial Court has dismissed the application under Order 1 Rule 10 C.P.C. filed by the petitioners on the ground that they are not the employees of Food Corporation of India and that they are not concerned in any manner with the Food Corporation of India administration. It has been observed by the trial Court that the Food Corporation of India assigns the contract of loading, unloading and transportation of the food grains and these contractors engage their labour to do the job, as such the contractor is the sole responsible person for paying the wages of the workers.

It has also been observed by the trial Court that indirectly the payment of such contracts is made by Food Corporation of India as the contractor is the sole responsible person for the Food Corporation of India to execute the work entrusted to him. On the basis of the said observations, the trial Court has arrived at a conclusion that the Chairman, the Managing Director, Regional Manager and other high ranking officers are not at all necessary parties in the case as they have nothing to do with the claim filed by the plaintiff-petitioners in the suit.

Vide impugned order the trial Court has allowed three members

committee, which is responsible for making the payment of wages to the labour to be impleaded as defendant in the suit.

After considering the facts and circumstances of the case, I am of the considered opinion that the plaintiff-petitioners are seeking the payment of their wages, which ultimately comes from the Food Corporation of India and is paid to the plaintiff-petitioners through the contractor with the consent of the three members committee, which is responsible for recommending the payment of wages to the labourers, the Food Corporation of India cannot be said to having no concern with the payment of wages to the plaintiffs. The presence of the Food Corporation of India as defendant appears to be necessary for the just decision of the case because in case the suit of the plaintiff-petitioners is decreed, the amount of wages will ultimately flow from the Food Corporation of India.

The Food Corporation of India is held to be a proper party, if not a necessary party, as such the application under Order 1 Rule 10 C.P.C. qua the Food Corporation of India should have been allowed by the trial Court.

According the revision petition is partly allowed in the above terms and the Food Corporation of India, New Delhi is ordered to be impleaded as defendant in the suit. As the suit pertains to the year 1993 and the counsel for the parties are not aware whether it is still pending, it is ordered that in case the suit is pending, the trial Court will proceed further after impleading the Food Corporation of India, New Delhi as a party.

September 13 ,2006 (M.M.S.BEDI)
TSM JUDGE